

## CONSERVATION COMMISSION

### AGENDA

JULY 6, 2011

7:15 PM

TOWN HALL - 472 MAIN STREET - ROOM 204

7:15 Notice of Intent - 21 Elm Street - Douglas/Gates Boardwalk - Acton Public Schools (010)

Proposed repair and replacement of the existing boardwalk and construction of a new access Kid Island and new floating dock within a Bordering Vegetated Wetland and Floodplain between the Douglas & Gates Schools (town atlas plate E-2, parcel 247).

7:30 Request for Determination - 134 Nonset Path – Cherie Peters (020)

Proposed addition to an existing single-family home within 100' of a wetland (town atlas plate C-4, Parcel 13-17).

7:40 Request for Determination - 138 Pope Road – Sorrell Sammons (030)

Proposed addition of a deck and screened porch to an existing single-family home within 100' of a wetland (town atlas plate F-5, parcel 51).

*\*Filing fee not received to date.*

7:45 NOI - Continuation - 101 Nonset Path (040)

Amended plans are forthcoming.

8:00 Notice of Intent - 380 Mass Avenue - Victor School (050 – 051)

Proposed addition to an existing school building, parking lot grading, construction and associated drainage structure installation within 100' of a wetland (town atlas plate G-3, parcel 101-2).

8:45 Notice of Intent - 2 Seneca Court – Lynn Armstrong (060)

Proposed grading and landscaping within 100' of a wetland (town atlas plate E-2, parcel 178-6).

### MINUTES

January 20 OSRP	forthcoming
March 3 OSRP	forthcoming
**March 23 CC & OSRP	forthcoming
June 15	pending

**CONSERVATION COMMISSION  
MINUTES  
JULY 6, 2011  
7:15 PM  
TOWN HALL - 472 MAIN STREET - ROOM 204**

**COMMISSIONERS PRESENT:** Terry Maitland, Andy Magee, Amy Green, Fran Portante, Tom Arnold, Bill Froberg

**CONSERVATION ADMINISTRATOR & RECORDING SECRETARY:** Tom Tidman

**VISITORS:** Cherie Peters, JD Head, Irwin Abrams, Judith & Robert Knowlton, Michael Krol, James Shope, Jay Frolick, Bernice & Steve Baran, Donald Armstrong, Linda Onuska, Bob & Connie Huber, Sorrell Sammons, Rich Harrington, Ziping Jiang, Peter Gammie, David Burke, Todd Brown

**\*\*** Amy Green recused herself from the hearing for 21 Elm Street; she has filed a disclosure notice with the Clerk's office in this regard.

**7:15** Notice of Intent - 21 Elm Street - Douglas/Gates Boardwalk - Acton Public Schools (010)

JD Head presented proposed plans for the repair and replacement of the existing boardwalk and construction of a new access to Kid Island and new floating dock within a Bordering Vegetated Wetland and Floodplain between the Douglas & Gates Schools (town atlas plate E-2, parcel 247).

Mr. Maitland noted that the original OOC 85-1055 was rescinded due to Ms. Green's involvement with the original NOI. Mr. Maitland also noted that her involvement occurred prior to her becoming a Conservation Commissioner.

Mr. Head noted that they plan to complete the observation platform with new decking on the same sub-structure. If possible an affordable dock will be added to the structure and a new NOI will be filed at that time.

Upon query by Mr. Arnold, Mr. Head stated that the existing boardwalk will be widened from four-feet to five-feet; the Schools plan to complete the project this summer prior to the start of the new school year.

Hearing no further comments, Mr. Maitland closed the hearing.

*[See file in the Conservation Office also located in DocuShare: Conservation Commission - 2011 Meetings 07-06-2011 - (010)].*

Decision - 21 Elm Street - Douglas/Gates Boardwalk - 85-1067.

Mr. Magee moved that the Commission issue a standard Order of Conditions for the plans as presented, noting that standard conditions 18 & 19 under the Bylaw are not applicable. Mr. Froberg 2<sup>nd</sup>; the motion passed unanimously.

**7:40** Request for Determination - 134 Nonset Path - Cherie Peters (020)

Ms. Peters presented plans for a proposed addition to an existing single-family home within 100' of a wetland (town atlas plate C-4, Parcel 13-17). Ms. Peters reported that her house was built in the 1990's and a Certificate of Compliance was issued in June, 2000. As of the time the Certificate was issued the deck had not been built. She would like to sell the house and having an approval to build the deck is crucial to the sale of the house.

Upon query by Mr. Magee, Mr. Tidman reported that the closest distance from the house to wetlands is 53'.

Ms. Peters reported, at its closest point as originally proposed and approved, the deck would have been 41' from the edge of wetlands. See "Sketch Plan of Cantilevered Deck – 5/2011".

Upon query by Mr. Froberg, Ms. Peters reported that the house footprint was modified slightly from the original approved NOI plan, the outer living room wall was bumped out two-feet, not nine-feet as shown.

Ms. Peters stated that this Request for Determination filing is not for the originally approved deck (41') from wetlands; she is requesting a smaller deck that will provide access from the existing kitchen sliding doors. The requested deck can be small and cantilevered.

Upon query by Mr. Maitland, Ms. Peters agreed that the plans show the proposed deck constructed wrapping around to the existing deck at the kitchen entrance door.

*[See file in the Conservation Office also located in DocuShare: Conservation Commission - 2011 Meetings 07-06-2011 - (020)].*

#### Determination of Applicability - 134 Nonset Path

Mr. Magee moved that the Commission find that the work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions:

- 1) As per Sketch Plan, dated May 2011, the proposed deck may extend out no more than six-feet on the west (pond) side of the existing dwelling, and no more than eight-feet on the north (kitchen) side of the dwelling.
- 2) The Applicant shall submit an Amended Sketch Plan showing the approved dimensions of the proposed deck to the Conservation Office for Administrator's review and approval prior to the initiation of any work.
- 3) This negative Determination of Applicability and the above approved Amended Sketch Plan shall be attached to the property deed and recorded at the Middlesex South Registry of Deeds prior to the initiation of any work.

Mr. Arnold 2<sup>nd</sup>; unanimous.

#### 8:09 Request for Determination - 138 Pope Road - Sorrell Sammons (030)

Mr. Maitland tabled the meeting until later in the evening as the applicant was not present at this time.

#### 8:10 NOI - Continuation - 101 Nonset Path (040)

Rich Harrington from Stamski & McNary addressed concerns and questions raised by the Commission and abutters regarding access and limited project (alternative analysis), and stated that the Applicant complies with the Wetland Protection Act (WPA), wetland replication, and drainage.

Upon query by Mr. Maitland, Mr. Harrington reported that the proposed plan at this time is for an 18' wide private way servicing twelve single-family homes; Mr. Harrington has checked with the Planning Department and his research indicates that it is considered an allowable use under Town zoning.

Upon query by Ms. Green, Mr. Harrington reported that the proposed width of the private way has been increased at the curve slightly for safety. He feels that the small section of wetlands at Wetland Flag #29 will receive enough water to survive. Mr. Harrington testified that construction of the structural retaining walls will not require further encroachment into wetlands during the construction process. Retaining wall sections within the wetlands being altered will be installed

from the roadway side of the disturbance area and, hence, no wetlands will be temporarily disturbed.

Mr. Harrington stated that the basins are designed at the lowest possible elevation to take runoff from the entire driveway.

Mr. Magee stated that the bulk of runoff could be treated outside of the wetland buffer zone. Mr. Magee noted that the basin retaining wall acts as a barrier between the wetland and the upland.

Mr. Harrington stated that he feels that the proposed improvements will have an environmental benefit; for filling purposes, the drainage basins are designed and considered part of the roadway construction.

Upon query by Mr. Arnold, Mr. Harrington stated that the proposed width of the private drive is based on the request of the Fire Chief, not by the number of proposed houses. He will have to confirm with the Fire Chief, he believes that the width of the road from one to six houses is 12', the Fire Chief requires a minimum paved width of 18' for 12 homes.

Brian Butler from Oxbow Associates, speaking on behalf of Nagog Woods Community Corporation (NWCC), noted the following:

- The proposed vertical wall on wetlands is not desirable or conventional as they create a barrier to wildlife movement.
- This project is filed as a Limited Project [(310 CMR 10.53(e)]; it is premature to approve "...all other permits must be in place..."
- "DEP Wetlands Policy 88-2: Access Roadways" states that the applicant must demonstrate that they have sought a variance for the standard length and width of roadway requirements.
- Activity is proposed within the 30'-use-restricted-area; has the feasibility of that been explored?

Mr. Butler continued to note information that the applicant does not have:

- Structural design of the retaining wall will be made after the hearing is closed, meaning that there is no public input or involvement in the process.
- Driveway that serves more than six lots means houses (six more); needs a special permit from the Planning Board.
- July 6, 2011 letter from Atty. Lou Levine states "perpetual easement" meaning declaration and covenant goes forever, it is not a restriction.

Ziping Jiang noted that the existing easement is not consistently 20' wide; it is 14' in one location.

James Shope stated that Peters stopped paying taxes because the lot was unbuildable.

Upon query by Mr. Magee, Mr. Harrington stated that this proposal is "by right" zoning, the applicant does not need Planning Board approval for the twelve proposed units; there is nothing to trigger a zoning opinion.

Mr. Magee noted that the proposed detention basins are located within the buffer zone; the proposed design is utilizing all of the buffer zone for drainage control, thus impacting the entire buffer zone. Mr. Magee expressed concern regarding the nearness of detention basins to wetlands as basin berms have been deemed structures under the Bylaw in past decisions, noting in particular the basin berms at Temple Beth Elohim..

Atty. Lou Levine referred to the opinion of the Town Planner, Roland Bartl: the proposed plan was originally reviewed by Mr. Bartl, the Applicant's attorney offered an opinion allowing the proposed development.

Atty. Levine stated that the Commission cannot issue an Order of Conditions until outstanding taxes are paid.

Mr. Harrington, answering a series of questions, stated:

- 1) The outstanding tax issue is being discussed with the Town Treasurer and a representative of the owner. If permits were approved then the Applicant would proceed with paying the outstanding taxes. The Applicant would accept a special condition if an Order is approved.
- 2) The elevations are set, the walls are set when the substrate is encountered and the structural engineer will design to what is encountered; all disturbed areas within the buffer zone will be planted and naturalized. Structural work should be on record prior to the OOC being issued.

Upon query by Mr. Magee, Brian Butler stated that he feels that there is a limited level of detail in the vernal pool report; he would have liked to see more observations documented in the report by B & C Associates.

Atty. Levine stated that the applicant does not have a definitive answer from Planning regarding zoning issues.

- The Planning Board approves driveways; DEP Policy 88-2 requires that Planning be asked prior to approval by the Conservation Commission.
- The Town Planner, Roland Bartl, has sent a letter to the Applicant stating concerns that this parcel may not be buildable.
- "Use Area 3" contains use for recreational purposes, which includes much of the basin area, NWCC granted use for recreational purposes.
- Chapter O states "shall deny" permits – must hold a hearing to discuss outstanding taxes.

Mr. Magee suggested that the hearing be continued to address Chapter O issues by way of a Hearing to Show Cause. Mr. Arnold agreed.

Mr. Magee noted other issues to be addressed:

- Are drainage basin berms structures because they are currently located in a no-structure area under the Bylaw.
- The Commission will need a letter from the Zoning Enforcement Officer in the Planning Department

Ms. Green stated that she would like the Town Engineer to review the drainage design and stormwater calculations.

- Are wetlands soils being used in the proposed replication area and will there be a hydraulic connection to wetlands from the proposed replication area?
- Erosion control around structural activity.
- Wildlife features in wetland replication area.
- Which stormwater regulation standards are not being met, and why?
- Are the proposed drainage basins designed to have standing water in them?

Mr. Maitland continued the hearing until August 17, 2011 at 7:30 PM.

*[See file in the Conservation Office also located in DocuShare: Conservation Commission - 2011 Meetings 07-06-2011 - (040)].*

#### 10:15 Notice of Intent - 380 Mass Avenue - Victor School (050 - 051)

Proposed addition to an existing school building, parking lot grading, construction and associated drainage structure installation within 100' of a wetland (town atlas plate G-3, parcel 101-2).

Peter Gammie from Columbia Design Group stated that the Victor School needs to expand; it is a non-profit, middle to high school with 55 students. Currently the school does not have an indoor



recreational space and wish to expand the building into the existing parking lot with a 5,000 s.f. multi-purpose space.

David Burke, wetlands resource specialist, reported that this is a considered redevelopment site. Proposed activities are limited to Buffer Zone, the resource area is predominantly a red maple swamp. All on-site drainage will be brought up to date with infiltration.

Peter Gammie from Columbia Design Group reported that the upper parking will be reconstructed and resurfaced. The proposed gym will be constructed on the old parking lot (rear of building). Runoff will be captured and reintroduced into the ground through a series of infiltration chambers. The lower parking lot will be reconstructed with subsurface infiltration. Approximately 2,800 s.f. of pavement will be converted to pervious play area. The dumpster will be placed in the storage area in the new structure. All work will occur outside of the floodplain. Erosion control barriers will be placed around the entire work area

Upon query by Mr. Maitland, Mr. Gammie stated that if permits are in place this summer, work will start in the fall.

Upon query by Mr. Arnold, Mr. Gammie reported that the original developer of the site, in the 1980's, wanted a third building; they will need 46 parking spaces for the school. A school requires less parking spaces than an office building.

Mr. Magee stated that the proposal is not in greater non-compliance under the Bylaw, and the site is serviced by the town's sewers.

Upon query by Ms. Green, Dave Burke reported that he does not feel that the stream is perennial in the wetlands adjacent to the work area, he has seen it dry where it converges with a stream farther down-gradient it may be perennial but not at this location point.

Upon query by Mr. Froberg, Mr. Gammie reported that there will be a slight increase in impervious surface.

10:45 Hearing no further comments or questions, Mr. Maitland closed the hearing.

*[See file in the Conservation Office also located in DocuShare: Conservation Commission - 2011 Meetings 07-06-2011 - (050-051) and [Public Meetings](#) » [Conservation Commission](#) » [Wetland Filings](#) – 101 Nonset Path – DEP File 85-1060 ].*

#### DECISION - 380 Massachusetts Avenue - 85-1066

Mr. Magee moved that the Commission issue a standard Order of Conditions with the following Finding of Fact: The Acton Conservation Commission makes no ruling on the status of the unnamed brook to the west of the site, either perennial or intermittent. Direct observation by the Applicant's botanist, David W. Burke, indicates that the brook was dry in the fall of 2010, while the stream is considered perennial on USGS Maynard Quadrangle Map dated 1987.

Mr. Arnold 2<sup>nd</sup>; unanimous.

10:48 Request for Determination - 138 Pope Road - Sorrell Sammons (030)

Mr. Sammons presented proposed addition of a deck and screened porch to an existing single-family home within 100' of a wetland (town atlas plate F-5, parcel 51). The proposed addition is no greater than the pre-existing non-compliant setback of the existing structure.

*[See file in the Conservation Office also located in DocuShare: Conservation Commission - 2011 Meetings 07-06-2011 - (030)].*

11:15 Determination of Applicability - 138 Pope Road

Mr. Magee moved that the Commission find that the work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection

under the Act. Therefore, said work does not require the filing of a Notice of Intent (-3); Ms. Portante 2<sup>nd</sup>, unanimous.

11:20 Notice of Intent - 2 Seneca Court - Lynn Armstrong (060)

Ms. Portante reported that she is an acquaintance of Lynn and Don Armstrong but that it would not impinge her ability to participate in the hearing.

David Burke, wetlands resource specialist, presented proposed grading and landscaping within 100' of a wetland (town atlas plate E-2, parcel 178-6). Mr. Burke reported that this site is level with no changes of grade; could add a boulder to the limit of work. The area where grading will occur is extremely flat with no chance for erosion; Mr. Burke stated that he does not feel that silt prevention would be necessary.

Todd Brown, from Lincoln Tree & Landscape, described the existing stripped area; the owner plans to create a usable lawn area. The existing fenced-in garden is closer to wetlands than the new proposed lawn; at its closest point, the proposed lawn will be approximately 65' from the edge of wetlands.

Upon query by Mr. Maitland, Todd Brown of Lincoln Tree stated that all grading, loaming and seeding would be done in the month of August.

Tom Tidman agreed that silt prevention would not be necessary.

11:45 Hearing no further comments, Mr. Maitland closed the hearing.

*[See file in the Conservation Office also located in DocuShare: Conservation Commission - 2011 Meetings 07-06-2011 - (060)].*

DECISION - 2 Seneca Court - DEP File 85-1065

Mr. Magee moved that the Commission issue a standard Order of Conditions for the plans as presented; Mr. Arnold 2<sup>nd</sup>, unanimous.

11:50 Meeting adjourned.



Terry Maitland,  
Chair



Location: Home » Public Meetings » Conservation Commission » 2011 Meetings » 07-06-2011 Listing

07-06-2011



Type	Title	Owner	Edited	Size	Actions
	<a href="#">040 - 101 Nonset Path - Amended Plans, Letter &amp; Correspondence</a>	naturalres	06/30/11	12	
	<a href="#">0001 - July 6 Agenda</a>	naturalres	07/06/11	62 KB	
	<a href="#">010 - Notice of Intent - Douglas - Gates Boarwalk</a>	naturalres	06/30/11	4 MB	
	<a href="#">020 - Request for Determination - 134 Nonset Path</a>	naturalres	06/30/11	387 KB	
	<a href="#">030 - Request for Determination - 138 Pope Road</a>	naturalres	06/30/11	385 KB	
	<a href="#">050 - Notice of Intent - 380 Massachusetts Avenue - Victor School</a>	naturalres	06/30/11	6 MB	
	<a href="#">051 - Drainage Report - 380 Mass Avenue - Victor School</a>	naturalres	06/30/11	6 MB	
	<a href="#">060 - Notice of Intent - 2 Seneca Court</a>	naturalres	06/30/11	11 MB	



Location: Home » Public Meetings » Conservation Commission » 2011 Meetings » 07-06-2011 » 040 - 101 Nonset Path - Amended Plans, Letter &amp; Correspondence Listing

## 040 - 101 Nonset Path - Amended Plans, Letter & Correspondence



Refresh



Type	Title	Owner	Edited	Size	Actions
	06-28-2011 - Alternative Access Sketch	naturalres	06/30/11	2 MB	
	06-28-2011 - Pre-Development Drainage Map	naturalres	06/30/11	671 KB	
	06-28-2011 - Revised Stormwater Report	naturalres	06/30/11	11 MB	
	06-28-2011 - Wetland Permitting Plan - Grading, Drainage & Utilities	naturalres	06/30/11	5 MB	
	06-28-2011 Post-Development Drainage Map	naturalres	06/30/11	860 KB	
	06-30-2011 - Wetland Descriptions Alternative Access	naturalres	06/30/11	115 KB	
	06-30-2011 - Wetland Replication Schedule	naturalres	06/30/11	131 KB	
	06-30-2011 - 101 Nonset Path A1-Delineation Field Data Form 03-19-2011	naturalres	06/30/11	229 KB	
	06-30-2011 - 101 Nonset Path A2-Delineation Field Data Form 3-19-2011	naturalres	06/30/11	227 KB	
	06-30-2011 - 101 Nonset Path PVP Letter B & C Associates 6-24-2011	naturalres	06/30/11	110 KB	
	06-30-2011 - Jim Shope Nagog Woods Email dated May 12, 2011	naturalres	06/30/11	263 KB	
	06-30-2011 Stamski Revision Letter	naturalres	06/30/11	5 MB	